

COURT MINUTES OF TRIAL

ALVIN BALDUS, CARLENE BECHEN, ELVIRA BUMPUS,
RONALD BIENDSEIL, LESLIE W DAVIS, III, BRETT
ECKSTEIN, GLORIA ROGERS, RICHARD KRESBACH,
ROCHELLE MOORE, AMY RISSEEUW, JUDY ROBSON,
JEANNE SANCHEZ-BELL, CECELIA SCHLIEPP, TRAVIS
THYSSEN, CINDY BARBERA, RON BOONE, VERA
BOONE, EVANJELINA CLEERMAN, SHEILA COCHRAN,
MAXINE HOUGH, CLARENCE JOHNSON, RICHARD
LANGE, and GLADYS MANZANET

Plaintiffs,

TAMMY BALDWIN, GWENDOLYNNE MOORE and
RONALD KIND,

Intervenor-Plaintiffs,

v.

Members of the Wisconsin Government Accountability
Board, each only in his official capacity: MICHAEL
BRENNAN, DAVID DEININGER, GERALD NICHOL,
THOMAS CANE, THOMAS BARLAND, and TIMOTHY
VOCKE, and KEVIN KENNEDY, Director and General
Counsel for the Wisconsin Government Accountability
Board,

Defendants,

F. JAMES SENSENBRENNER, JR., THOMAS E. PETRI,
PAUL D. RYAN, JR., REID J. RIBBLE, and SEAN P. DUFFY,
Intervenor-Defendants.

Case No. 11-CV-562
JPS-DPW-RMD

VOCES DE LA FRONTERA, INC., RAMIRO VARA, OLGA
VARA, JOSE PEREZ, and ERICA RAMIREZ,

Plaintiffs,

v.

Members of the Wisconsin Government Accountability
Board, each only in his official capacity: MICHAEL
BRENNAN, DAVID DEININGER, GERALD NICHOL,
THOMAS CANE, THOMAS BARLAND, and TIMOTHY
VOCKE, and KEVIN KENNEDY, Director and General
Counsel for the Wisconsin Government Accountability
Board,

Defendants.

Case No. 11-CV-1011
JPS-DPW-RMD

**WOOD, Circuit Judge, DOW, District Judge, and
STADTMUELLER, District Judge, Presiding**

DATE: February 15, 2012

TIME SCHEDULED: 8:30 a.m.

COURT DEPUTY: Zachary Willenbrink

TIME CALLED: a.m.

COURT REPORTER: Kathy Halma/Michelle Hagen

TIME FINISHED: a.m.

PURPOSE: Scheduling Conference

PLAINTIFF BY: Douglas Poland, Dustin Brown, Brady Williamson, Wendy Arends

CONSOLIDATED PLAINTIFFS BY: Jacqueline Boynton, Peter Earle

INTERVENOR-PLAINTIFFS BY: James Olson, P. Scott Hassett

DEFENDANTS BY: Colleen Fielkow, Patrick Hodan, Daniel Kelly, Maria Lazar

INTERVENOR-DEFENDANTS BY: Kellen Casper, Thomas Shriner

Notes:

Tuesday, February 21, 2012

8:38 a.m. Appearances

8:39 Judge Stadtmueller inquires as to whether Mr. Daugherty or Mr. Troupis are present in court; they are not currently present; Judge Stadtmueller requests that attempt be made to contact one of those individuals to ensure their presence in court

8:43 Mr. Earle informs the Court that those individuals are not currently present, but may arrive shortly

8:43 Judge Stadtmueller makes some preliminary comments regarding parties' filings, including Docket #179 (a motion for clarification with regards to attorney-client privilege)

8:46 Court stands in recess awaiting arrival of Mr. Daugherty and Mr. Troupis

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9:04 Court reconvenes; Mr. Troupis appears with attorneys Don Daugherty and John Tuffnell

9:05 Judge Stadtmueller discusses recent developments in this case, including motion for clarification of attorney-client privilege, filed last evening

9:07 Judge Stadtmueller provides counsel with some guidance regarding foremost issues: Counts 1, 3, 5, and 7; these counts relate to the unnecessary temporary disenfranchisement of voters and the negative effects of the Acts on the Latino and African-American voting populations

9:09 Court requests that Mr. Troupis' counsel file a memorandum of law in support of their motion by 4:00 p.m. today, 2/21/12; any responses must be filed by 8:00 a.m. tomorrow, 2/22/12

9:11 Court requests that parties consider working with one another, notifying the Court by 5:30 p.m. today, 2/21/12, whether the parties can reach a resolution addressing the Court's concerns; if that avenue is unavailable, then trial will commence tomorrow, 2/22/12 at 8:30 a.m.; however, if there is the possibility that the Legislature will revisit the redistricting legislation, the Court will reschedule trial to begin either on Monday, March 12, or Monday, March 19, to provide the Legislature the opportunity to pass a new redistricting plan

9:15 Court informs the parties that, if Mr. Troupis is required to testify, he will be required to first testify in an out-of-court deposition

9:16 Court states that it makes no findings as of this time regarding the issues raised above

9:17 Mr. Shriner suggests that the Court rule on the issue of Act 44; Court responds that the one issue related to Act 44 is whether there was unnecessary moving given the computerization available; while this may be a minor issue, which no court has yet struck down redistricting legislation on the basis of, the

Court is not willing to dismiss the Act 44 claims at this time

9:21 Mr. Shriner responds that Act 44 presents no constitutional issue, and that to pare that part of this case out will narrow those issues for trial; Court will take this issue under advisement; Judge Wood clarifies that while the Court may ultimately decide along the lines of what Mr. Shriner has requested, the Court feels that it needs more factual information before it can adequately rule on the issue

9:24 Parties have nothing further

9:25 Court stands in recess

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5:00 Court reconvenes; attorneys put appearances on record

5:00 Court greets counsel, requests that counsel provide update to court on their discussions with clients

5:01 Mr. Kelly states that the Legislature has stated their interest in passing a new redistricting plan; however, there is an impediment to going forward: Wisconsin Constitution and *State ex rel. Smith v. Zimmerman*, in which Wisconsin Supreme Court held that only one redistricting can be developed per decade, preventing the Legislature from revising; only exception recognized: when Legislature engages in changing districts incidentally

5:05 Mr. Poland makes a statement on clients' behalf; states that *Smith v. Zimmerman* is inapposite, because the Legislature is still in its "first session" which is the only issue raised by the Wisconsin Constitution

5:06 Mr. Earle agrees with Mr. Poland's assessment of *Zimmerman*; adds that the case hinged upon the fact that the legislature in that case had adjourned

5:08 Judge Dow asks Mr. Kelly whether the Legislature would be open to discussion in the absence of a prohibition from *Zimmerman*; Mr. Kelly states that

is the case, but clarifies that *Zimmerman* stated that the mere passage of a redistricting act was what was being considered

5:10 Judge Wood asks whether there is a difference because no election has been held under the new act; Mr. Kelly states that is not necessarily the case

5:11 Judge Stadtmueller asks whether, if the Court were to strike down the act, the Legislature would act

5:13 Judge Wood asks whether the Wisconsin Supreme Court can find contrary to or limit the holding of the *Zimmerman* case

5:14 Mr. Shriner clarifies that Wisconsin Supreme Court cannot take certification from district court (including a three-judge court), advises the Court of additional case that may be on point

5:15 Mr. Kelly points out that, in *Zimmerman*, there was not a constitutional challenge

5:16 Mr. Shriner and Mr. Kelly clarify that the original referendum in the *Zimmerman* case occurred in 1952

5:17 Mr. Shriner clarifies the point of law from *Zimmerman*; Mr. Kelly states that the distinction of a claim of constitutionality raised by Mr. Poland would lead to collusive litigation

5:19 Mr. Earle indicates the Voces plaintiffs' potential new claim based upon intent, and the need to engage in further discovery

5:21 Mr. Kelly objects; Judge Stadtmueller indicates that Mr. Troupis has filed a memorandum; Mr. Earle will file his response tomorrow; Mr. Earle indicates to Court that a large amount of new emails were submitted this past Friday, and thus requests he be able to depose Mr. Troupis prior to trial; Mr. Earle requests that the trial be adjourned to allow time to perform discovery

5:23 Judge Stadtmueller makes a statement regarding the lack of transparency in

discovery thus far, and the Court will grant the request for further discovery
5:26 Judge Stadtmueller directs further briefing to on the issue of whether the Court may issue an order allowing the legislature to redraft the redistricting legislation

5:27 Mr. Poland requests that Mr. Troupis' deposition be completed before testimony begins; Court directs that Mr. Poland put in writing his request that the Legislature certify that all disclosure is complete

5:29 Mr. Earle states that Mr. Troupis may not have disclosed the entirety of the documents in his possession

5:30 Court states that, to the extent additional orders or certification are needed, those be filed with CM/ECF; with regards to the *Zimmerman* case, the parties shall file briefs on that issue not later than 8:00 a.m. tomorrow morning; at least for the moment, the Court believes that it has the authority to interpret state law; Judge Stadtmueller believes that it is unlikely that this case will be able to be tried until at earliest this Thursday; even so, it may need to be tried in March

5:34 Mr. Shriner clarifies that Wisconsin held two-year assembly sessions since 1900

5:34 Judge Dow clarifies his point

5:34 Mr. Shriner makes statement that a number of the Act 44 issues could be tried tomorrow

5:35 Judge Stadtmueller states that the Court will not reconvene for testimony tomorrow; the Court requests that attempts to stipulate on those testimonies be made; Court requests that attorneys be available upon 45 minutes notice, because Court may deal with these issues in court

5:38 Court stands adjourned

Wednesday, February 22, 2012

10:06 Appearances

10:07 Judge Stadtmueller discusses issues remaining after yesterday's proceedings

10:08 Judge Dow addresses Mr. Troupis' motion for clarification: Mr. Troupis required to testify, regarding political, strategic and policy aspects of his advice to third parties; however, attorney-client privilege or work product privilege prevents the further examination of Mr. Troupis regarding documents 31–32, 39–40, 70–73, and 76–82, and also JRT 81, 86, 113, 126–27

10:12 Don Daugherty clarifies that Mr. Troupis is required to testify pursuant to a court order, Judge Dow confirms that he is; Mr. Earle questions whether Attorney Troupis has produced all documents required by the Court's prior orders

10:14 Judge Stadtmueller states that Judge Wood will deliver the opinion of the Court regarding the *Zimmerman* issue

10:16 Judge Wood addresses the *Zimmerman* issue raised last evening, concludes that the Court has the authority to interpret Wisconsin law, as part of its power to order parties to engage in settlement; the Court decides that neither the Wisconsin Constitution nor the *Zimmerman* cases prohibit the Legislature from passing a revised version of the redistricting legislation, based upon the text of the Wisconsin Constitution as well as the distinguishability of the *Zimmerman* cases from the case at hand; orders parties to report settlement progress back to the Court by 2 p.m. today

10:31 Judge Stadtmueller indicates that trial will begin tomorrow morning at 8:30 a.m., with intent that presentation of evidence be completed by Friday, 2/24; Mr. Troupis' testimony will need to be taken in the meantime, and the parties may

file a copy of his deposition if they desire to do so

10:34 Judge Stadtmueller states that parties may telephonically notify the Court of its settlement progress

10:35 Judge Stadtmueller clarifies the Court's requirement that the parties engage in a meet and confer conference

10:36 Judge Stadtmueller states that, if the Legislature is to redraft the redistricting legislation in an open and fair environment, the Court is more likely to hold that a redistricting is constitutional; Judge Wood adds that any future litigation would be controlled by Wisconsin's law of issue preclusion and the generally strong concept of *stare decisis*

10:39 Mr. Kelly asks for clarification; Judge Wood states that a hypothetical redrafted map, if acceptable to the Court and approved, would result in dismissal of this case with prejudice, Judge Stadtmueller agrees, likening the process to class action settlement—the parties will need to agree to a redrafted map and the Court will need to engage in an independent investigation

10:43 Mr. Kelly states dissatisfaction with this process; Judge Dow and Judge Wood disagree, stating that if parties are to agree on a redrafted plan there would be no need for an additional trial

10:45 Judge Stadtmueller, Judge Wood, and Judge Dow make several additional comments, stating that it would be preferable for the Legislature to pass maps rather than having the Court pass upon constitutional issues; agree that the Court may issue a consent decree as opposed to a private settlement

10:51 Mr. Shriner states that he and Mr. Hassett are very close to reaching an agreement on presentation of testimony at trial

10:51 Court stands in recess

Thursday, February 23, 2012

8:34 Appearances

8:35 Judge Stadtmueller expresses his appreciation of parties' efforts toward bringing this case to an alternative resolution; requests information regarding stipulation on Act 44

8:36 Mr. Shriner advises court of stipulation to submit all evidence in written form; parties agree

8:38 Judge Stadtmueller directs parties to direct their opening statements to the matters still at issue

8:40 Mr. Poland informs court that Bard's testimony will be submitted in written format to the Court; Judge Stadtmueller states that the testimony may be submitted by CM/ECF, as may also be done with other depositions; plaintiffs waive opening statements, as do consolidated (Voces) plaintiffs

8:43 Ms. Lazar presents opening statement on behalf of defendants, the Government Accountability Board

9:03 Plaintiffs request to provide the Court with exhibit binders; Court accepts

9:04 Plaintiffs call John Bartkowski; Mr. Earle begins examination

9:06 Dr. Bartkowski describes his background and occupation

9:07 Ms. Lazar objects: relevance—stipulation 147 has been entered regarding diversity of the areas in questions; overruled

9:09 Mr. Earle displays exhibit 203; Dr. Bartkowski indicates the location of the clinic he works at on the map displayed in exhibit 203

9:11 Ms. Lazar objects: relevance; withdrawn

9:13 Objection: relevance; overruled

9:16 Objection: relevance; sustained

9:17 Objection: foundation; withdrawn

9:20 Objections: relevance; sustained

9:21 Mr. Earle has no further questions

9:22 Ms. Lazar begins cross-examinations

9:22 Ms. Lazar ends cross-examination

9:23 Mr. Earle begins re-direct; displays exhibit 185 to the witness

9:24 Objection: scope; sustained

9:24 Mr. Earle ends re-direct

9:24 Mr. Earle calls Pedro Colon

9:25 Mr. Earle displays exhibit 176 to the witness

9:26 Objection: relevance; withdrawn

9:27 Mr. Earle displays exhibit 201 to the witness

9:28 Mr. Earle displays exhibit 199; corrects himself—exhibit 202

9:29 Objection to exhibit: prepared by counsel and not by witness; Judges Dow and Wood state that this exhibit should be admitted because it is a summary; Court allows Mr. Earle to proceed

9:33 Objection: leading; rephrased

9:34 Objection: speculation; overruled

9:35 Mr. Earle ends examination

9:35 Ms. Lazar begins cross-examination

9:36 Objection: scope; overruled

9:36 Ms. Lazar presents exhibit 1099 to witness

9:37 Objection: foundation; overruled in the case that this exhibit has been stipulated to

9:43 Judge Stadtmueller indicates to Ms. Lazar that the line of questioning is marginally relevant; Judge Wood makes a similar comment

9:45 Ms. Lazar displays exhibit 1025; objection: foundation, overruled

9:47 Objection: foundation; withdrawn
9:49 Ms. Lazar ends cross-examination
9:49 Mr. Earle begins re-direct
9:49 Mr. Earle displays exhibit 200
9:50 Objection: scope; withdrawn
9:50 Mr. Earle displays exhibit 199
9:51 Objection: scope; sustained
9:51 Mr. Earle ends re-direct
9:51 Mr. Earle calls Christine Neumann-Ortiz as a witness
9:58 Objection: relevance; overruled
10:02 Objection: relevance; sustained
10:03 Judge Wood asks whether testimony is of relevance to issues regarding
Assembly Districts 8 and 9; objection is sustained
10:05 Mr. Earle presents exhibit 176
10:09 Mr. Earle ends examination
10:09 Mr. Kelly begins cross-examination
10:11 Mr. Kelly displays exhibit 1178
10:14 Objection: scope, relevance; overruled
10:22 Mr. Kelly displays exhibit 1179
10:25 Objection; Judge Stadtmueller directs a question to the witness
10:29 Objection; Court stands in recess
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10:45 Court resumes; Mr. Kelly continues cross examination
10:50 Objection: foundation; Judge Stadtmueller states that the witness has
largely addressed Mr. Kelly's questions, directs Mr. Kelly to move on
10:52 Mr. Kelly presents exhibit 1061

10:55 Mr. Kelly ends cross-examination

10:55 Mr. Earle begins redirect

10:57 Mr. Earle presents exhibit 237

11:00 Mr. Earle ends re-direct

11:01 Mr. Earle calls Prof. Ken Mayer as a witness

11:01 Mr. Earle presents exhibit 55

11:11 Witness confirms that exhibit 55 is an accurate copy of his expert report; points out several minor changes and typos

11:13 Mr. Earle displays exhibit 60; witness confirms its accuracy

11:13 Mr. Earle displays exhibit 200

11:16 Mr. Earle displays exhibit 176; Mr. Earle refers witness to exhibit 1084

11:18 Witness refers to exhibit 55's attachment 2

11:22 Mr. Earle displays exhibit 176

11:23 Objection: relevance, foundation; Mr. Earle rephrases to lay foundation

11:24 Objection: not included in expert report; overruled

11:26 Mr. Earle refers witness to exhibit 60; witness also refers to attachment 2 to exhibit 60

11:31 Mr. Earle refers to table 8 of exhibit 55

11:36 Mr. Earle refers to exhibit 182

11:42 Mr. Earle displays exhibits 185 and 184

11:49 Mr. Earle displays attachment 7 to exhibit 55

11:57 Mr. Earle displays exhibit 198 (a cleaner version of exhibit 1025)

12:01 Witness refreshes memory with attachment 7 to exhibit 55

12:05 Mr. Earle displays attachment 6 to exhibit 55

12:05 Mr. Earle refers witness to page 23 of exhibit 55

12:10 Mr. Earle displays exhibits 199 and 202

12:11 Objection: failure to produce exhibit 202 to defendants; overruled

12:17 Objection: not a part of expert report; witness states that he mentioned this in his expert report; defendants argue that the statement was conclusory; overruled

12:21 Mr. Earle ends examination with regards to *Voces* portion of Dr. Mayer's testimony; Mr. Poland begins examination

12:23 Mr. Poland displays exhibit 20

12:24 Mr. Poland refers to paragraph 128(a)–(f) of the pretrial report

12:28 Witness refers to exhibit 235

12:29 Objection: beyond the scope of witness' report; witness directs the Court to specific references in his report in which he discussed this issue (making reference to "other districts"); defendant points out that expert report does not mention district 12

12:33 Judge Stadtmueller points out that witness referenced district 12 in the table carrying over from page 24 to page 25

12:34 Witness states his reason for not including district 12 in the text of his report; defendant states that objection stands

12:37 Overruled

12:39 Mr. Kelly renews objection; overruled, answer stands

12:41 Court stands in recess

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1:47 Court reconvenes

1:48 Due to scheduling issue, plaintiff requests that Dr. Mayer's testimony be interrupted to present several other witnesses

1:48 Judge Stadtmueller addresses objections of parties, which the parties may note as they arise, and the judges will treat information subject to objections

appropriately

1:49 Plaintiff intends to call Kevin Kennedy; a motion in limine is outstanding, which asks that the scope of Mr. Kennedy's testimony be limited; Mr. Kelly argues that the scope of Mr. Kennedy's testimony be limited

1:52 Judge Wood asks for clarification

1:53 Mr. Poland opposes motion in limine

1:56 Mr. Kelly responds

1:59 Judge Stadtmueller responds to the parties' comments; objection is overruled

2:00 Mr. Shriner makes a comment taking issue with Mr. Poland's statement, asking that this material not be admitted as relates to Act 44; Mr. Poland responds that he will not address Act 44 in his examination of Mr. Kennedy

2:03 Mr. Poland begins examination of Mr. Kennedy

2:06 Mr. Shriner objects to Mr. Poland's use of Act 44 in his line of questioning; withdrawn

2:08 Mr. Poland refers Mr. Kennedy to exhibit 166

2:13 Mr. Poland displays exhibit 12

2:17 Mr. Poland displays exhibit 17

2:19 Mr. Poland refers Mr. Kennedy to exhibit 188

2:19 Objection: relevance; objection is noted, Mr. Poland may proceed

2:21 Mr. Poland refers Mr. Kennedy to exhibit 12A, as well as exhibit 12 for comparison purposes

2:26 Objection: mischaracterization; noted

2:28 Objection: relevance; overruled, based upon the pleadings as they stand

2:29 Objection: relevance, attorney-client privilege; overruled

2:30 Mr. Poland refers witness to exhibit 5; Mr. Poland withdraws prior question

2:31 Objection: mischaracterization; Court directs Mr. Poland to display evidence on the topic

2:31 Mr. Poland again refers witness to exhibit 5

2:32 Mr. Poland refers witness to exhibit 229

2:32 Mr. Poland directs Mr. Kennedy to exhibit 6

2:38 Mr. Poland refers Mr. Kennedy to exhibit 79

2:44 Mr. Poland ends examination

2:44 Mr. Earle has no questions for witness; Mr. Kelly begins examination

2:51 Mr. Kelly directs witness to exhibit 12A

2:52 Mr. Kelly has nothing further; Mr. Poland begins redirect

2:53 Mr. Poland ends redirect; Mr. Kelly begins re-cross

2:54 Mr. Kelly ends re-cross

2:54 Court puts several questions to witness; there are no further questions for Mr. Kennedy

2:55 Plaintiffs call Peter Barca

2:56 Mr. Brown begins examination of Mr. Barca

2:58 Mr. Brown refers Mr. Barca to exhibit 197

3:01 Mr. Brown refers Mr. Barca to exhibit 178

3:06 Objection: hearsay; overruled

3:10 Objection: relevance; sustained

3:21 Mr. Brown ends examination

3:21 Mr. Kelly begins cross examination

3:36 Mr. Kelly refers witness to exhibit 1053

3:44 Court stands in recess

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4:03 Court reconvenes; Mr. Kelly continues cross examination

4:13 Mr. Kelly directs witness to exhibit 1055

4:21 Mr. Kelly requests leave to place documents on witness stand; granted

4:21 Judge Stadtmueller states that this matter's relevance is unclear

4:24 Mr. Kelly directs witness to exhibit 1068

4:26 Mr. Kelly requests that the Court receive exhibits 1067, 1068, 1069, 1070, and 1075; Court receives

4:28 Plaintiffs re-call Dr. Mayer; Mr. Poland continues direct examination

4:37 Mr. Poland refers witness to exhibit 55, attachment 2

4:44 Witness discusses exhibit 55, attachment 3

4:49 Objection: hearsay; noted

4:50 Witness refers to exhibit 1020

4:54 Witness refers to exhibit 55, attachment 3

4:58 Witness refers to table 28 (stipulated exhibit, presented in pretrial report)

5:09 Witness refers to exhibit 204

5:19 Witness refers to exhibit 169

5:21 Mr. Poland refers witness to exhibit 177

5:24 Mr. Poland ends direct examination

5:24 Mr. Kelly begins cross examination

5:31 Objection; witness allowed to continue answer

5:37 Objection; question withdrawn

5:59 Court requests that the parties provide approximate time they will need to complete presentation of evidence tomorrow; Mr. Poland requests guidance from court for how long closing arguments should be expected to last; Court responds that the length of closing arguments will depend on how many claims and facts the parties can come to agreement on; Court will place no limits on the length of closing arguments—only limit is upon any filing of further writing after the close

of evidence tomorrow

6:03 Court stands in recess

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7:14 Court reconvenes for record-keeping purposes related to stipulations

7:15 Mr. Poland states that plaintiffs are willing to dismiss claims 2, 4, 5, one aspect of their sixth claim related to non-Latino districts, claim 7; further clarifies that the plaintiffs retain claim 9 only such that they may make a waiver argument tomorrow

7:17 Ms. Lazar states that the parties agree that it is likely the parties will complete the presentation of evidence by approximately 9:15

7:19 Judge Stadtmueller notifies parties that, if anyone needs to be admitted after 5:00, the parties will need to contact court security officers to

7:20 Mr. Shriner states that he will take no more than fifteen minutes on closing arguments and will notify Mr. Hasset of the same; plaintiffs make clear that intervenor-plaintiffs have not passed upon these stipulations

7:20 Ms. Lazar provides a tentative witness list

7:22 Judge Stadtmueller states that parties should avoid duplicative testimony

7:23 Court stands in recess

Friday, February 24, 2012

8:33 Appearances

8:34 Mr. Poland states that plaintiffs will dismiss Count 9, if the defendants will enter a stipulation; Ms. Lazar states that the defendants are not willing to make that stipulation

8:36 Mr. Kelly wishes to clarify some of the stipulations entered last night; issues remaining: population movement/core retention, equal population, VRA as it

relates to the Latino population, and delayed voting; Mr. Earle states that the Voces plaintiffs will no longer pursue a claim of intentional discrimination; Mr. Poland clarifies; Mr. Hassett clarifies that the Act 44 claims remain on behalf of the intervenor-plaintiffs

8:39 Mr. Kelly resumes cross-examination of Dr. Mayer

8:47 Objection: relevance; withdrawn

8:54 Mr. Kelly displays exhibit 1021

9:10 Mr. Kelly displays exhibit 1128 and exhibit 1094

9:16 Mr. Kelly refers witness to exhibit 1017

9:19 Mr. Kelly displays exhibit 1125

9:21 Objection: relevance; noted

9:28 Mr. Kelly refers to exhibit 1126

9:29 Judge Stadtmueller, Judge Wood, and Judge Dow question witness regarding his calculations of citizen voting age population

9:31 Mr. Kelly refers witness to exhibit 1127

9:40 Witness refers to exhibit 54

9:46 Mr. Kelly displays exhibit 1099

9:55 Mr. Kelly displays exhibit 1025 and 1017

10:01 Objection to time spent on cross-examination; overruled

10:16 Judge Wood interjects to ask a question of counsel; Mr. Kelly responds

10:18 Mr. Kelly ends cross examination

10:18 Mr. Earle begins redirect examination

10:19 Mr. Earle displays exhibit 54

10:23 Mr. Earle ends redirect; Mr. Poland begins redirect

10:25 Mr. Poland ends redirect

10:25 Mr. Kelly begins re-cross

10:27 Mr. Kelly ends re-cross

10:27 Court stands in recess

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10:46 Court reconvenes

10:47 Baldus plaintiffs rest case; plaintiffs move in all exhibits *en masse*, and deposition transcripts and designations; Court requests that the parties provide the Court with specific names of deponents and exhibits to be submitted to Court

10:50 Mr. Shriner submits stipulations regarding Act 44; Court receives

10:51 Voces plaintiffs also wish to move in all exhibits; Court provides similar instructions as were provided to Baldus plaintiffs

10:51 Defendants call Peter Morrison

10:52 Ms. Lazar begins examination

10:55 Ms. Lazar displays exhibit 32

11:03 Ms. Lazar displays 1191

11:06 Ms. Lazar displays exhibit 53

11:13 Objection: foundation; noted

11:18 Ms. Lazar ends examination

11:18 Mr. Earle begins cross-examination

11:19 Mr. Earle displays exhibit 32

11:21 Mr. Earle displays exhibit 53

11:26 Witness reads from exhibit 55

11:32 Mr. Earle displays exhibits 1191, 185

11:33 Mr. Earle ends cross examination

11:33 Ms. Lazar begins redirect

11:34 Ms. Lazar ends redirect

11:34 Defendants call Keith Gaddie

11:35 Mr. Kelly begins examination
11:36 Mr. Kelly displays exhibit 30
11:42 Mr. Kelly approaches witness to provide a set of exhibits
11:43 Mr. Kelly displays exhibit 58; Mr. Gaddie notes several corrections
11:46 Witness refers to pages 12 and 13 of exhibit 30
11:53 Witness references a George Washington University Law Review article
from 2005, written by Nathan Persley
11:58 Mr. Kelly displays attachments 2 and 3 of exhibit 1017
12:15 Mr. Kelly ends examination
12:16 Mr. Earle begins cross examination
12:18 Mr. Earle displays portions of Dr. Gaddie's deposition
12:21 Mr. Earle ends cross examination
12:22 Mr. Poland displays exhibit 1021
12:24 Mr. Poland displays exhibit 66
12:34 Mr. Poland displays exhibit 204
12:37 Mr. Poland displays exhibit 178
12:38 Witness refers to exhibit 58
12:38 Mr. Poland discusses witness's deposition
12:40 Witness refers to exhibit 58
12:48 Mr. Poland displays exhibit 63
12:50 Court stands in recess
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1:56 Court reconvenes; Mr. Poland continues direct examination
1:58 Mr. Poland refers witness to exhibit 71
1:59 Objection: relevance; overruled
2:02 Mr. Poland displays exhibit 77

2:05 Mr. Poland displays exhibit 67

2:07 Mr. Poland ends cross examination; Mr. Kelly begins redirect

2:10 Mr. Kelly refers witness to exhibit 63

2:12 Mr. Kelly displays exhibit 73

2:15 Mr. Kelly ends redirect

2:15 Mr. Poland displays exhibit 63

2:15 Mr. Poland refers to exhibit 73

2:16 Mr. Poland ends re-cross

2:16 Mr. Kelly begins re-re-direct

2:18 Mr. Kelly ends re-re-direct

2:18 Mr. Earle begins re-re-cross

2:18 Mr. Earle ends re-re-cross

2:19 Mr. Kelly begins re-re-re-direct

2:19 Mr. Kelly ends re-re-re-direct

2:20 Mr. Earle begins re-re-re-cross

2:20 Mr. Earle ends re-re-re-cross

2:20 Defendants call Bernard Grofman

2:21 Ms. Lazar asks a question regarding scheduling

2:22 Mr. Hodan begins direct examination of Dr. Grofman

2:33 Mr. Hodan displays exhibits 1153, 1181

2:43 Mr. Hodan displays exhibit 1185

2:48 Mr. Hodan displays exhibit 1151

2:53 Mr. Hodan refers witness to attachments B and D from exhibit 1181

2:54 Objection: foundation; noted

3:00 Mr. Hodan refers to *Baumgart v. Wendelberger*

3:02 Mr. Hodan refers to exhibit 1181

3:04 Court stands in recess

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3:20 Court reconvenes

3:20 Mr. Hodan continues examination of Mr. Grofman

3:33 Mr. Hodan displays exhibit 1189, exhibit 1190

3:50 Mr. Hodan displays exhibit 1186

3:53 Mr. Earle requests that plaintiffs be allowed to call Dr. Mayer again to respond to a number of exhibits received by plaintiffs last night; taken under advisement

3:53 Mr. Hodan displays exhibit 1025

4:09 Witness refers to exhibit 1017, attachment 7

4:19 Witness refers to exhibit 1025

4:27 Witness refers to table 1099

4:37 Objection: relevance; withdrawn

4:39 Mr. Hodan displays exhibit 19

4:40 Mr. Hodan ends direct examination

4:41 Mr. Earle begins cross examination

4:44 Mr. Earle refers witness to exhibit 134

4:45 Mr. Earle refers witness to Dr. Grofman's deposition

4:56 Mr. Earle displays exhibit 185

4:57 Mr. Earle displays exhibit 184

5:00 Mr. Earle displays exhibit 176

5:05 Objection; overruled

5:07 Mr. Earle displays exhibit 240

5:20 Objection: mischaracterization; witness responds

5:23 Objection: interrupting the witness; Judge Stadtmueller instructs Mr. Earle to

give the witness a bit of leeway to answer questions raised

5:26 Mr. Earle displays exhibit 1190

5:32 Objection; objections is withdrawn

5:33 Objection; question is withdrawn

5:34 Mr. Earle ends cross examination

5:35 Mr. Hodan begins redirect examination

5:35 Mr. Hodan displays exhibit 1181

5:44 Mr. Hodan ends redirect; Mr. Earle begins re-cross

5:45 Mr. Earle displays exhibit 199

5:52 Mr. Earle ends re-cross

5:52 Defense rests

5:53 Plaintiffs will not call Dr. Mayer

5:53 Receipt of evidence closed; will resume at 7:00 for the final receipt of evidence

5:54 Court stands in recess

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6:47 Deputy of Court meets with attorneys and court reporter to move exhibits into the record

6:48 Maria Lazar moves in agreed exhibits: 2, 2A, 3-17, 19-22, 24-27, 30, 31, 32-34, 36, 38, 38A, 39, 41-45, 49, 49A, 50-55, 57-58, 60, 63, 66, 67, 71-73, 77, 79, 81, 83, 84, 85, 88-90, 92, 93, 95-125, 128, 130-136, 139, 140-144, 155, 156, 166, 169, 173-176, 178, 181, 182, 184, 185, 188, 197-205, 206-209, 220-232, 237, 240, 1002, 1017, 1020, 1021, 1025, 1028-1034, 1038, 1039, 1041-1061, 1065-1076, 1078-1080, 1082-1084, 1086-1111, 1112-1114, 1117, 1118, 1120, 1138, 1151-1159, 1166, 1174-1192; parties also move in deposition designations and counterdesignations

6:55 Off the record

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7:05 Court reconvenes

7:05 Ms. Lazar notes that exhibits 31, 83, 84, 85 were stipulated to be admitted, in the place of the testimony of John Diez

7:06 Mr. Earle offers closing argument on behalf of plaintiffs and consolidated plaintiffs

7:23 Mr. Earle ends closing argument; Mr. Poland begins closing argument on behalf of plaintiffs and consolidated plaintiffs

7:52 Mr. Poland ends closing argument; Mr. Olson begins closing argument on behalf of the intervenor-plaintiffs

8:07 Mr. Olson ends closing argument; Mr. Shriner begins closing argument on behalf of the intervenor-defendants

8:24 Mr. Shriner ends closing argument; Mr. Kelly begins closing argument on behalf of the defendants

9:07 Mr. Kelly ends closing argument

9:08 Judge Stadtmueller thanks the parties for their focused presentation of the evidence in this case; the Court will issue a written opinion within the coming weeks; Court stands adjourned